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ABSTRACT

School district policies concerning student records in Pennsylvania must be in conformity with these guidelines. The guidelines were established and adopted to ensure that the student's right to privacy is not invaded when the information is gathered or released; to determine which officials can have access to a student's file and how much of the file shall be open for inspection; and to protect both the student and the school officials when information concerning the student is requested by schools, businesses, or other third parties. The final sections of the document include hypothetical cases provided as examples of concrete actions that might be taken by school personnel in accordance with the recommendations. (Author/MLF)

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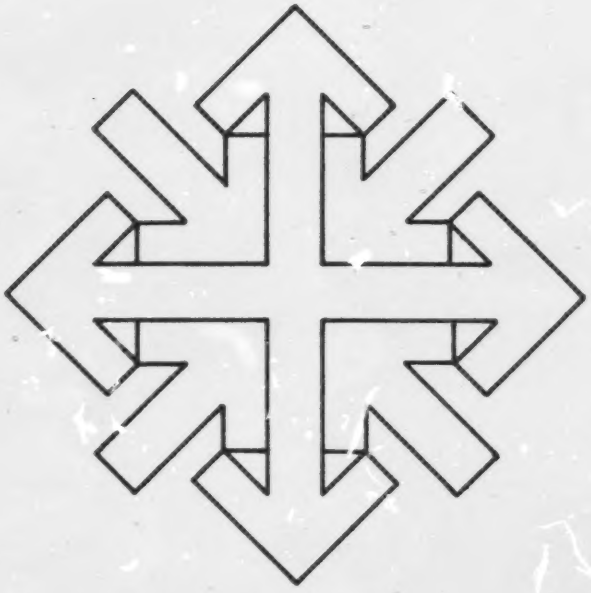
GUIDELINES FOR THE COLLECTION MAINTENANCE AND DISSEMINATION OF PUPIL RECORDS



PENNSYLVANIA DEPARTMENT OF EDUCATION
BUREAU OF INSTRUCTIONAL SUPPORT SERVICES
DIVISION OF PUPIL PERSONNEL SERVICES

EA 007 175

August 20 , 1974

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INTRODUCTION

In his March 8, 1973 opinion affirming the statutory and common law right of a student and a student's parents to examine public school records concerning the student, Attorney General Israel Packel noted that nearly three-fourths of the public schools were without any guidelines controlling the release of information from a student's file. The complete opinion of the Attorney General is contained in a memorandum released by Donald M. Carroll, commissioner of Basic Education, on April 12, 1973.

Student files contain information covering nearly every phase of a student's existence. In addition to academic records, student files often contain data from personality, psychological and intelligence tests; health records; reports from school psychologists; reports by guidance counselors; and ancedotal records and evaluations by teachers and administrators. Much of this information is of a personal and private nature, and if improperly released, could operate to the prejudice or impairment of the student's reputation or personal security. Where that result could occur, Pennsylvania's "Right to Know" law, 65 Purdon's Statutes § 66.1, restricts the release of the information.

Guidelines are needed for the collection and dissemination of the information contained in a student's file, to insure that the student's right to privacy is not invaded when the information is gathered, nor when it is released. Guidelines are needed to help school authorities to determine which officials can have access

to a student's file, and to determine how much of the file shall be open for inspection. Guidelines are needed to protect both the student and the school officials when information concerning the student is requested by schools, businesses, or other third parties.

To help provide answers to these and other problems, the Attorney General recommended that the "Guidelines for the Collection and Dissemination of Pupil Records," prepared by the Russell Sage Foundation, be used as the basis for an approach to the problems posed by student records.

A set of guidelines was subsequently prepared and submitted to the State Board of Education. On July 12, 1974, the Board adopted regulations governing pupil records policies. In those regulations, the Board noted that the district's plan for pupil records should be in conformity with the aforementioned guidelines. Following is the complete text of the State Board of Education Regulations and the accompanying document entitled "Guidelines for the Collection, Maintenance and Dissemination of Pupil Records."

REGULATIONS OF THE STATE BOARD OF EDUCATION

(Adopted July 12, 1974)

PUPIL RECORDS

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§ 12.31 General requirements.

§ 12.32 Elements of the plan.

§ 12.31. General requirements.

(a) Each board of school directors shall adopt a plan for the collection, maintenance, and dissemination of pupil records and submit the same to the Department of Education for approval on or before September 2, 1975.

(b) Updated copies of the adopted plan shall be forwarded to the Department of Education for approval once every three years.

§ 12.32. Elements of the plan.

The plan for pupil records shall conform to the "Guidelines for the Collection, Maintenance, and Dissemination of Pupil Records" (see Exhibit 1), except that a school district may modify the guidelines, with the approval of the Secretary of Education, to conform with local policy.

PROPOSED PRINCIPLES FOR THE MANAGEMENT OF SCHOOL RECORDS
(Exhibit 1)

Preamble

Schools typically maintain extensive and intimate information about pupils and their families for legitimate educational purposes including instruction, guidance and research. Necessarily, the collection and maintenance of any information about a pupil or his family constitutes a potential intrusion on privacy. At the same time, society, by its approval of our educational institutions, legitimizes such intrusions, at least in those cases where the information collected can be demonstrated to be necessary for the effective performance of designated educational functions.

There are clear indications, however, that current practices of schools and school personnel relating to the collection, maintenance, use and dissemination of information about pupils threaten a desirable balance between the individual's right to privacy and the school's stated need to know. Specifically, we may point to the following examples of potential abuse:

Information about both pupils and their parents is often collected by schools without the informed consent of either children or their parents. Where consent is obtained for the collection of information for one purpose, the same information is often used subsequently for other purposes. For example, information collected by a counselor for use in guiding students is sometimes released, without consent of students or parents, to a college or employer for use in selecting students.

Pupils and parents typically have little or, at best, incomplete knowledge of what information about them is contained in school records and what use is made of this information by the school. For example, teacher or counselor evaluations of a pupil's character and personality traits may be incorporated into the pupil's permanent record, without parental knowledge, and used subsequently as a basis for a college recommendation.

Parental and pupil access to school records typically is limited by schools to the pupil's attendance and achievement record (including standardized achievement test scores). For example, intelligence test scores, personality data, and teacher and counselor reports, are usually withheld from both parents and pupils.

The secrecy with which school records usually are maintained makes difficult any systematic assessments of the accuracy of information contained therein. Formal procedures permitting parental or pupil challenges of allegedly erroneous information do not exist. An unverified allegation of misconduct may therefore, for example, become part of a pupil's permanent record.

Procedures governing the periodic destruction of outdated or no longer useful information do not exist in most systems. Moreover, the cumulative nature of most record-keeping systems makes a fresh start difficult or impossible for most pupils.

Within many school systems few provisions are made to protect school records from examination by unauthorized school personnel. Thus, for example, a teacher may usually obtain access to a pupil's record file, whether or not the pupil is a student of his, and without demonstrating a legitimate need for the information.

Access to pupil records by nonschool personnel and representatives of outside agencies is, for the most part, handled on an ad hoc basis. Formal policies governing access by law enforcement officials, the courts, potential employers, colleges, researchers, and others do not exist in most school systems. For example, in many school systems a police official may obtain access to a pupil's record file.

Sensitive and intimate information collected in the course of teacher-pupil or counselor-pupil contacts is not protected from subpoena by formal authority in most states.[1]

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[1] Act 287 approved by Governor Shapp on December 6, 1972, reads:
Section 1319. Confidentiality of Student Communications. --No guidance counselor, school nurse or school psychologist in the public schools or in private or parochial schools or other educational institutions providing elementary or secondary education, including any clerical worker of such schools and institutions, who, while in the course of his professional duties for a guidance counselor, school nurse or school psychologist, has acquired information from a student in confidence shall be compelled or allowed without the consent of the student, if the student is eighteen (18) years of age or over, or, if the student is under the age of eighteen (18) years, without the consent of his or her parent or legal guardian, to disclose that information in any legal proceeding, civil or criminal, trial, investigation before any grand, traverse or petit jury, or any officer thereof, or before any commission, department or bureau of this Commonwealth, or municipal body, officer or committee thereof. Notwithstanding the confidentiality provision of this section, no such person shall be excused or prevented from complying with the act of August 14, 1967 (P.L. 239), entitled "An act relating to gross physical neglect of, or injury to, children under eighteen years of age; requiring reports in such cases by examining physicians or heads of institutions to county public child welfare agencies; imposing powers and duties on county public child welfare agencies based on such reports; and providing penalities."

It is our opinion that these deficiencies in record-keeping policies, taken together, constitute a serious threat to individual privacy in the United States. These deficiencies also interfere with the effective functioning of our educational institutions in that school administrators, if they are to continue to obtain information necessary for the effective performance of their duties, must maintain the good will of their clients who voluntarily supply such information. We therefore hope that school authorities will review their current record-keeping policies in light of the following proposed guidelines, and, where appropriate, revise them in such a way as to strike a balance between the need for educationally relevant information about children and the protection of individual rights to privacy.

COLLECTION OF DATA

1.0 We begin, and urge school authorities to begin, from the fundamental principle that no information should be collected from students without the prior informed consent of the child and his parents.

1.1 Such consent may be given either individually or through the parents' legally elected or appointed representatives (for example, the Board of Education) depending on the nature of the information to be collected.

1.2 With respect to conditions under which individual as opposed to representational consent should be required, we acknowledge, first, that it will not always be possible to obtain the separate consent of every parent for every data gathering process, and that the approval of such processes by appropriately elected representatives (whether a legislature, a school board or other body) will in some situations adequately satisfy the principle of consent. We do not believe that it would be appropriate to endorse rigid formulae for the identification of situations in which representational consent will be sufficient; it is enough for present purposes to emphasize two contrasting benchmarks:

1.2.1 On one hand, we have concluded that representational consent will, for example, ordinarily be sufficient in situations involving aptitude and achievement testing (whether standardized or informal) and reporting of skill and knowledge outcomes in the subject-matter areas now within the customary curricula of the public schools.

1.2.2 On the other hand, we believe that programs of personality testing and assessment, for example, should proceed only with the informed individual consent of each child and/or his parents. (See 1.5 and 4.6) The test or assessment itself should not be shown to the child or his parents, although representative questions not included in the scoring or evaluation may be shown. Moreover, individual consent should be an absolute requirement before information, other than that required for pupil identification, concerning a pupil's family is obtained (for example, ethnic origin, religious beliefs, income and occupational data, husband-wife relations, and the like), or before any information not directly relevant for educational purposes is solicited from the pupil or his parents.

1.2.3 Classification of information-gathering procedures falling somewhere between these two extremes; for example, habit/

skills tests or vocational interest inventories, should be undertaken by each school system, with parents being notified of the result of all such decisions.

1.3 No statement of consent, whether individual or representational should be binding unless it is freely given after:

1.3.1 The parents (and students where appropriate by the principles described) have been fully informed, preferably in writing, as to the methods by which the information will be collected; the uses to which it will be put; the methods by which it will be recorded and maintained; the time period for which it will be retained; and the persons to whom it will be available, and under what conditions, or

1.3.2 The reasons for the impossibility or undesirability of such explanations have been presented.

1.4 In all situations where individual consent is to be obtained, it should be in writing.

1.5 Where individual consent is required, the student's consent should also be obtained where he is reasonably competent to understand the nature and consequences of his decision. (See also 4.6)

1.6 In situations in which representational consent is sufficient, students and their parents should be informed in advance, by school officials, perhaps annually or biannually, of the purposes and character of the data collections. Moreover, they should be guaranteed reasonable opportunities by the representational agency (for example, the School Board) to contest the necessity or desirability of particular data collection processes, or proposed use of such data. We emphasize, however, that the decision of the representational agency is, subject to higher authority or judicial review, binding on all students and parents, whether or not they might individually have consented to the collection. (See also 1.3)

1.7 We recognize that certain special problems are presented by data-gathering in individual situations. Illustrative here are interviews or diagnostic tests by the school counselor, social worker, nurse, psychologist, school principal, etc. While the foregoing recommendations on informed consent should be applied in these situations where possible, there are special problems to be resolved. In most of this class of situations, the requirement of informed consent cannot be met, perhaps because of the age of the student, or the unforeseeable course of the interview process. Moreover, in many schools there is an element of duress in that the student feels obliged to participate in the situation. The principles advanced by the conferees for these situations are as follows:

1.7.1 The professional should inform the student as fully as possible, consonant with his professional responsibility and the capacity of the student to understand the implications of the situation, about the data that are likely to be obtained; and

1.7.2 should stress the voluntary character of the student's participation.

1.7.3 Where reasonable doubt exists about the capacity of the student to understand the implications of the situation, either because of the student's age or other circumstances, parental permission should be sought first. Moreover, where a student clearly in need of intervention declines to participate, the professional should seek parental consent.

1.7.4 In either case, if parental consent is not given, further steps to provide assistance (including resort to the compulsory machinery of the school; for example, visits with the principal, sanctions, and the like) should be initiated only if the counselor or guidance officer:

a. Is entirely convinced, giving full attention to the privacy interests involved, that intervention is imperative;

b. Both the student and his parents have been fully informed, so far as that is possible; and

c. Appropriate school authorities (See 3.3) have consented.

1.7.5 It should be noted that the difficulties in meeting the criterion of informed consent in this type of situation place unusual stress on the proper management of recording of information and control over dissemination. (See 3.0-3.4)

1.8 Where the data are to be collected for nonschool purposes, either by school personnel or outsiders, as in the case where it is proposed that the student population be used as subjects in medical or social science research studies, then the above recommendations also should be fully applied, with the further provision that prior informed consent must be obtained from the responsible school authorities.

1.8.1 In cases where data are to be collected under conditions of anonymity, this fact should not relieve the collecting agency of the obligation to obtain the appropriate form of consent. In addition, we urge school authorities to establish procedures for regulating the collection of such data; including:

a. Timely notification to students and their parents that their participation in any aspect of any such data collection is entirely voluntary, and

b. Careful reviews of the instruments and procedures to be used for any such data collection to determine whether the methods and/or inquiries constitute a significant potential invasion of privacy, even though the data are to be collected under conditions of anonymity.

School authorities may, for example, conclude that the topics to be investigated are so intimate or likely to be so embarrassing to the students involved that an invasion of privacy will occur even under conditions of anonymity. In any such situation, prior informed individual consent should be required.

CLASSIFICATION AND MAINTENANCE OF DATA

2.0 The total set of student personnel data extant in a school at a given time ranges from tentative uncorroborated reports on alleged student behavior to highly stable information. To illustrate: On one end of the continuum a memo may contain a report or allegation that a particular student molested a child, disrupted a class, or wept for several hours yesterday; at the other extreme records will show that a student has completed grade five, that he received a specified score on a nationally standardized test, and that he has a particular attendance record. These differing kinds of data require differing arrangements for security and access.

2.1 Category "A" Data: Includes official administrative records that constitute the minimum personal data necessary for operation of the educational system Specifically we take this to mean identifying data (including names and address of parents or guardian), birth date, academic work completed, level of achievement (grades, standardized achievement test scores), and attendance data.

2.1.1 These records should be maintained for at least 100 years, subject to the conditions set forth in 3.0-3.3.

2.1.2 Conditions of access to these data are given in 4.0-4.9.

2.2 Category "B" Data: Includes verified information of clear importance, but not absolutely necessary to the school, over time, in helping the child or in protecting others. Specifically, scores on standardized intelligence and aptitude tests, interest inventory results, health data, family background information, systematically gathered teacher or counselor ratings and observations, and verified reports of serious or recurrent behavior patterns are included in this category.

2.2.1 Great care must be exercised by the school to ensure the accuracy of Category "B" data. In particular, reported behavior patterns and specific incidents must be unambiguously described and clearly verified before they become part of any continuing record. (See 2.3.1)

2.2.2 School systems should give serious consideration to the elimination of unnecessary Category "B" data at periodic intervals; for example, at points of transition from elementary to junior high school and from junior high to high school. In any case, these records should be destroyed, or else retained only under conditions of

anonymity, (for research purposes) when the student leaves school. Exceptions may be made where, under rigorous standards and impartial judgment, good cause for their retention can be shown. (See 3.4)

2.2.3 Conditions of access to these data are set forth in 4.0-4.9. Parents should be periodically informed of the content of these records and their right of access to these data.

2.3 Category "C" Data: Includes potentially useful information but not yet verified or clearly needed beyond the immediate present; for example, legal or clinical findings including certain personality test results, and unevaluated reports of teachers, counselors and others which may be needed in ongoing investigations and disciplinary or counseling actions.

2.3.1 Such data should be reviewed at least once a year and destroyed as soon as their usefulness is ended; or transferred to Category "B". Transfer to Category "B" may be made only if two conditions are met, namely,

1. The continuing usefulness of the information is clearly demonstrated, and

2. Its validity has been verified, in which case parents must be notified and the nature of the information explained.

Formal procedures for validating information and protecting the interests of students and parents at this stage are set forth in 3.3.

2.3.2 If, for any reason, temporary unevaluated data are held for more than a year, the existence of these data must be discussed with the parent and the reason for their maintenance explained fully. Parents then should have an opportunity to challenge the decision to maintain such data through procedures outlined in 3.3.

2.4 Confidential, Personal Files of Professionals in the School (school psychologist, social workers, counselors): We recognize that, in some instances, professionals working in the school may maintain personal and confidential files containing notes, transcripts of interviews, clinical diagnoses, and other memory aids for their own use in counseling pupils. Any and all data that are considered to be the personal property of the professional should be guarded by the rules given above in addition to those dictated by professional ethics, subject to the terms of the employment contact between the school and the professional and any special agreements made between the professional and individual parents and/or students.

ADMINISTRATION OF SECURITY

3.0 It is recommended that schools designate a director of guidance to be responsible for record maintenance and access, and to educate the staff about maintenance and access policies. All school personnel having access to records should receive periodic training in security, with emphasis upon privacy rights of students and parents.

3.1 Records should be kept under lock and key at all times, under the supervision of the designated professional.

3.2 Computerized data banks pose special problems of maintenance, security, and access not fully dealt with by these Guidelines. These problems should be fully explored and procedures developed for dealing with them, with the understanding that use of external data banks for record-keeping should be in accordance with all procedures outlined in these Guidelines.

3.3 Formal procedures should be established whereby a student or his parents might challenge the validity of any of the information contained in Categories "A" or "B." (See 4.7.2)

3.3.1 It is recommended that the school create a quasi-judicial review panel composed of qualified professional personnel to determine the validity of Category "C" data, and to provide for parental challenges of such data on occasions where their transfer to Category "B" is held to be desirable. Panel members should not be limited to school employes.

3.3.2 With respect to both challenges and verifications, parents and students should be given rights to counsel, to present evidence and to cross-examine witnesses. Further, parents should receive written notice of these proceedings and should be given reasonable time to prepare for them.

3.3.3 Provision should be made for an annual review of all data retained in Categories "B" and "C". The principle that good cause must be shown for the retention of any of these data should be followed. Parents should have an opportunity to challenge the decision to maintain such data through procedures outlined above.

3.4 Current practice of maintaining Category "B" data, with accompanying identifying information, after the student leaves school, often makes possible the use of these data for retrospective research studies. Significant value may accrue to society as

well as individuals from the results of such studies. Therefore it may be that, in some cases, the maintenance of such records after the child leaves school is justified. However, the difficulty of maintaining such data under secure conditions, the inability to foresee the value of future research, the difficulty in defining and obtaining informed consent when the data are collected initially, and the ultimate threat to individual privacy all militate against such policies. We therefore urge school systems to review their policies regarding long-term maintenance of such data and to establish procedures pertaining to consent, security, and access fully consonant with the general principles outlined above should they decide to retain identifiable information.

DISSEMINATION OF INFORMATION REGARDING PUPILS

4.0 As indicated in previous sections, all information regarding pupils and their families should be collected and maintained under such safeguards of privacy as may be obtained through informed consent, verification of accuracy, limited access, selective discard, and appropriate use. As long as the data are retained within the school, it can implement these principles with some flexibility of procedures. The school, however, is often asked to transmit student information to other agencies, institutions, and even individuals. Such requests come from schools, colleges, employers, courts, police, social agencies, and sundry others. Since conveyance of records removes the data from control of the school, much more stringent precautions are required to protect the rights of the student against infringement of privacy, misinterpretation of data, and inappropriate use.

4.1 The school <u>may</u>, without consent of parents or students, release a student's permanent record file, including Categories "A" and "B" defined above, to:

4.1.1 Other school officials, including teachers, within the district who have a legitimate educational interest. All school personnel desiring access to pupil records, however, should be required to sign a written form (see Sample Form C) which would be kept permanently on file, indicating specifically the "legitimate educational interest" that they have in seeking this information. Such a file would be available to parents and to the school official responsible for record maintenance (see 3.0) as a means of auditing the operation of the system.

4.1.2 The state superintendent and his officers or subordinates, so long as the intended use of the data is consistent with the superintendent's statutory powers and responsibilities. (See also 4.9)

4.1.3 To officials of other primary or secondary school systems in which the student intends to enroll, under the condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity to challenge the record's content via a specified judicial-like procedure. (See 3.3, 4.7 and Sample Form D)

4.2 The school or any school personnel <u>may not</u> divulge, in any form, to any persons other than those listed in 4.1.1-4.1.3 above, any information contained in school records except:

4.2.1 With written consent from the student's parents specifying records to be released, and to whom, and with a copy of the records to be released to the student's parents and/or students if desired by the parents, or

4.2.2 In compliance with judicial order, or orders of administrative agencies where those agencies have the power of subpoena. Parents and/or students should be notified of all such orders and the school's compliance.

4.3 Where parental and/or student permission is required for the release of school records, procedures for obtaining this permission should take into account the distinctions made in 2.1-2.3 regarding differences in the kinds of data contained in a student's record file, as follows:

4.3.1 Routine, nonspecific (with respect to information to be released), consent applies only to Category "A" data. (See 2.1)

4.3.2 Additional, separate, and specific (with respect to information to be released) permission should be required for the release of any data in Category "B". (See 2.3)

4.3.3 Under no conditions, except as in 4.2.2, should the school release information in Category "C." (See 2.3)

4.3.4 Under no conditions, except as in 4.2.2, should the school release information gathered by any nonschool agency, but included in the school record, with the exception of birth date. This would include, for example, the report of a caseworker concerning conditions in the pupil's home, etc.

4.4 Each matter of request for consent must be handled separately; for example, blanket permissions for release of data within an extended period of time may not be solicited since they, by definition, do not provide an opportunity for informed consent.

4.5 The school <u>may</u> comply with parental requests for the release of information to other persons or agencies, subject to the qualifications set forth in 4.6 regarding safeguards of the student's rights when he reaches legal age.

4.6 With respect to the problem of a student's age and his legal rights, the following <u>exceptions</u> should be made to the principle of parental consent:

4.6.1 When a student reaches the age of eighteen and no longer is attending high school, or is married (whether age eighteen or not), his or her consent alone must be obtained.

4.6.2 This includes the right to deny parental access to his records.[2]

4.7 Either a child, or his parents or guardian, or their legal representative, may have access to the official administrative record (Category "A" above). Parents may have access to Category "B" data. Students may have access to Category "B" data with parental permission.

4.7.1 This rule is subject to the qualifications regarding age and consent specified in 4.6.

4.7.2 This right of access includes the right to challenge the validity of information contained in the record through procedures to be developed by the school and involving a formal review process incorporating due process principles. (See 3.3)

4.8 The school may provide anonymous data from its records for outside research purposed without consent under conditions where the likelihood of identifying any individual because of his unique characteristics is negligible.

4.9 School districts often face instances in which governmental agencies, local, state and federal, mandate the release of information on individuals. The principle of informed consent should apply in all cases except those involving school responsibilities under existing child abuse or neglect statutes. Governmental agencies, in mandating the provision of information should abide by the recommendations herein contained to assure the rights of privacy. Where identification of individuals is nevertheless legally required, with or without consent, it is recommended that written protest be made by the local educational agency to the requesting agency, that parents be informed of the specific information which has been provided, and that legislative redress be sought. For Category "C" information the principles enumerated in 4.2.2 and 4.3.3 shall apply.

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[2] Twenty-one remains the age of effective consent for many purposes in most states. Our recommendations are premised on the social and educational interests of students and parents and not on any particular view of the various local laws. We urge school authorities to seek counsel to determine whether significant legal difficulties might arise from these recommendations under applicable state law.

IMPLEMENTATION

Comments

It will be apparent to experienced school administrators that many of the preceding recommendations will result in increased administrative as well as financial burdens on schools. The task was to outline as clearly as possible the basis and intent of the various principles without attempting to taken into account the special circumstances of individual schools or school systems. It is impossible to anticipate all of the possible practical difficulties that might be created by these recommendations in different settings. Each school system, therefore, must consider the recommendations in light of practical realitites it faces. For some systems, already hard-pressed to meet their primary obligations, implementation of some of the recommendations simply may be out of the question in the immediate future. On the other hand, many of the principles presented above will impose little, if any, additional expense or administrative hardship.

It should be noted, for example, that most of the recommendations contained in Section IV, pertaining to dissemination of information about pupils, do not require any specific positive actions or new administrative procedures on the part of school systems or school personnel. Rather, they provide a set of explicit guidelines for the use of school personnel in dealing with requests for information that are now handled on an ad hoc basis in many systems. If anything, many of the recommendations contained in this section will reduce the workload of school personnel, since they place the burden

of proof on the individual requesting the information and not on the school.

On the other hand, consent procedures, the administration of security and the periodic updating of pupil records, if thoroughly carried out, are likely to require considerable effort on the part of school personnel. In addition to ethical and legal obligations on school officials, we believe that such effort and probable additional expense will pay significant dividends in terms of increased confidence in schools on the part of parents and children. In light of current pressures to make schools more responsive to their constituents such an outcome would appear to be highly desirable. Of equal significance is the goal of establishing procedures that will increase the opportunities available to every child in the system and ensure that these opportunities are distributed equally among children of all abilities, races, cultural backgrounds, and family circumstances; for example, by increasing the availability of a second chance to children who begin their schooling with handicaps of one sort or another.

The following sections are included to assist in interpreting and implementing the preceding guidelines. In each section, hypothetical cases are provided as examples of concrete actions that might be taken by school personnel in accordance with the recommendations. These cases are not intended to be exhaustive of the range of possible events or school system responses to such occurrences. Nor do they, in all cases, lead to simple solutions. "Hard cases make bad law"; goes the lawyers' adage. But hard cases may play an important role in testing the practicality and utility of policy recommendations.

Finally, as we have noted, implementation of these principles will require the development of far more detailed and specific procedures, rules and organizational arrangements than it is possible or desirable to outline in this document. While recognizing that the development of such rules and procedures is a matter for local determination, school systems are urged to give serious attention to the process by which these rules and procedures will be established.

In keeping with the increasing demands for participation by students, parents and community leaders in the governance and rule making in the school, we urge that the very drawing up of such a code for the definition, operation, maintenance and disposition of sensitive school records should be subject to student participation within the school and to various kinds of consultative referenda or clearance with key parent-teacher associations, community action groups and professional associations within the community. The issuance, by administrative fiat, of a set of rules by the school system, carries with it the danger of ensuring misunderstanding by the various populations whose trust and good will must be linked with the system if it is to operate with maximum effect.

CASES

(1) The superintendent of schools, upon the recommendation of staff specialists in measurement and evaluation, proposes a system-wide testing program involving the periodic administration of standardized aptitude and achievement tests to all pupils at a given grade level.

Response: Such examinations may be administered without obtaining the separate consent of each parent and child. It is sufficient if the school board or other agency responsible for the conduct of school affairs and representative of the community has approved the program. (See generally 1.2) It is, nonetheless, recommended that parents receive periodic notice in writing of such programs, together with a brief description of their purposes. (See Sample Form A) Moreover, interested parents and others in the community should be given reasonable opportunities to challenge such programs before the approving agency. (See 1.6)

(2) The superintendent of schools, upon the recommendation of staff specialists in guidance and counseling, proposes to conduct a program of personality testing and assessment.

Response: Such programs should be conducted only with the prior written consent of parents and/or children. (See generally 1.2. On the form and source of consent, see 1.3-1.5. See also Sample Form B.) Special Note: Sections 1.2.1-1.2.3 were deliberately intended to be vague concerning certain kinds of information gathering procedures, including the administration of standardized intelligence tests. Some school systems may wish to place such tests in the same category as personality tests, thereby necessitating the solicitation of written consent of parents and/or children prior to their use in the school.

(3) A teacher wishes to administer a standardized test designed to diagnose individual difficulties in reading achievement to her pupils.

Response: The teacher should seek the approval of appropriate school authorities before administering the test. In addition, it is recommended that the school board or other agency responsible for the conduct of school affiars, acting on the recommendation of staff specialists in measurement and evaluation, or outside consultants, issue a roster of approved instruments for use in such situations by individual teachers. In accordance with 1.6, however, the teacher should inform parents periodically of the use and purpose of such tests. (See Sample Form A)

(4) The school psychologist or an individual counselor wishes to administer a standardized personality inventory to a pupil who is experiencing difficulties in getting along with his classmates.

Response: Prior written consent of the child's parents must be obtained before such tests may be administered. (Sample Form B may be used. See generally 1.7. Should consent be withheld, see 1.7.4 for possible remedial actions and precautions.)

(5) An educational research institute seeks permission from local school authorities to administer a questionnaire to high school students.

Response: The requirements of 1.2 relating to the necessity of consent must be satisfied. Moreover, the consent of responsible school authorities must first be obtained. (See generally 1.8) These requirements should not be waived or varied even if the information is to be collected under conditions of anonymity (1.8.1). Compare 4.8 for situations in which anonymous data are requested from existing school records.

(6) A well-known psychologist requests permission from school authorities to conduct a program of research involving the collection over time of data from individual pupils within the school. Although the general procedures and goals of the research are clear, the exploratory nature of the research makes specification in advance of all data to be collected impossible. The psychologist seeks blanket permission to proceed with the research without obtaining new parental consent every time he wishes to collect new information.

Response: Initial individual consent must be obtained from parents. Consent must also be obtained from students if they are reasonably competent to understand the nature and consequences of their decision. (See 1.2.2, 1.4, 1.5 and 1.7) In securing this consent, the procedures and goals of the research must be specified as clearly as possible (1.3). Parents (and pupils where appropriate) must be informed that additional information may be solicited in the future without their subsequent individual consent. Moreover, each time additional data are sought by the researcher, pupils must be reminded that they are under no obligation to continue participating in the research. Finally, parents must be notified periodically of the types of data being collected, be given an opportunity to withdraw from the program, and to request that all data be destroyed.

(7) A teacher asks the school psychologist for advice about a pupil who is receiving failing marks despite very high scores on

intelligence tests. The teacher reports, "This pupil can do the work, but he seems to doze in class all the time. There's something wrong with him." Should the psychologist make any record of this observation? If so, in what category does it belong? What further steps are indicated?

Response: Such observations fall into Category C (2.3) and should not be entered onto the student's permanent record until fully investigated, verified, and determined to be of continuing usefulness to the school. In this case, since the information is likely to serve as an aid in interpreting information already contained in the pupil's record, namely his grades, the psychologist should investigate further, keeping in mind the consent constraints imposed by 1.2 and 1.7, and notify the child's parents of the outcome of the investigation should it result in an entry in Category B of the pupil's record. (See 2.3.1)

(8) A student reveals to his counselor that he is having a great deal of trouble concentrating on his schoolwork because his father gets drunk every night and quarrels violently with his mother. He is worried that his mother may be in physical danger and solicits the aid of the counselor.

Response: The counselor should first try to reach the family, in this case the mother, by helping the child see the possible value of such contact. Failing in this effort, the counselor should inform the child of appropriate community agencies for assistance. Disposition of the counselor's personal record of the child's remarks is covered by 2.4, except insofar as the counselor has evidence of parental behavior towards the child which would require a report to the authorities under local child abuse of neglect statutes. (See 4.9)

(9) The parent (or guardian) of a sixteen-year-old student is concerned about his child's school performance. He asks to review the child's entire school record.

Response: The parent should be permitted to examine those portions of the child's record described in Categories A and B (2.1 and 2.2). He should not be permitted to review those materials described under Category C (2.3). It is recommended that competent professional assistance should be available to explain to him the meaning and implications of the materials he is permitted to examine. (See 4.7)

(10) The parent (or guardian) of a married student, aged sixteen, seeks to review the student's school records.

Response: The parent or guardian of a student who is married, or who is eighteen and no longer attends high school, should be

permitted to examine the student's records only with the written consent of the student. (See 4.6)

(11) A prospective employer telephones the local high school and asks for information about the marks, behavior, etc., of a recent graduate of the high school.

Response: No person, other than those listed in 4.1, should be permitted access to a student's school records without the prior written consent of the student and/or his parents. For the form and appropriate source of consent, see 4.3, 4.6, and Sample Form E. Oral comments by members of the school staff should be subject to these same limitations. Even if an appropriate form of consent has been obtained, it is recommended that information not be provided by telephone. Information should be given from school records only after the recipient has been properly identified and only if the records' custodian is reasonably confident that the recipient will understand the meaning of the information that is provided.

(12) A social worker employed by the local city government seeks to examine the school records of a child whose family is a client.

Response: No person other than those listed in 4.1, even one employed by local, state or federal authorities, may examine a child's records without the prior written consent of the child and/or parent. If such consent is denied, the petitioner must seek an appropriate court or administrative order.

(13) An unmarried seventeen-year-old high school student seeks to examine his school records. His parents have not submitted an appropriate form of consent.

Response: A student, even if unmarried or less than eighteen years of age, should be permitted to examine those portions of his records described under Category A. (See 2.1) He should be permitted to examine Category B materials (See 2.2) only with the prior written consent of his parent or guardian. (See generally 4.1 and 4.7)

(14) A college professor seeks permission from local school authorities to use student records (including identifying data) for research on the relation between high school grades and participation in extracurricular activities.

Response: Neither the possible importance of the study nor the difficulty of obtaining appropriate forms of consent should permit school authorities to waive the requirement of prior written consent from each of the individuals whose records are sought to be used. (See generally 3.4)

(15) A federal security agent asks the school principal for information about the patriotism, loyalty, and emotional and mental stability of a student who was graduated from high school ten years ago.

Response: The principal may not provide any information without the written consent of the individual about whom information is sought. If such consent is denied, school records may be examined only by an appropriate court or administrative order. (See 4.2 and 4.6) Moreover, it is recommended that schools destroy such information when a pupil leaves school, or retain it only under conditions of anonymity for research purposes. (See 2.2.2 and 3.4)

SAMPLE FORM A

ROUTINE INFORMATION LETTER TO BE SENT HOME AT THE BEGINNING OF EACH SCHOOL YEAR OR AT TIME STUDENT ENROLLS DURING YEAR

Dear Parent,

In accordance with the recommendations of the Superintendent of Schools and the Director of Measurement and Evaluation, the Board of Education has approved a city-wide testing program designed to provide information concerning the proficiency of all children in the district on standardized tests of academic achievement and aptitude.

The results of these tests provide a continuing record of each child's academic progress in comparison with national norms. They are also an invaluable aid to your child's teacher and counselor in diagnosing individual strengths and weaknesses in order to provide more effective individualized instruction. During the coming school year the following tests will be administered to your child as part of this program:

	Name of Test	Purpose
EXAMPLE	Iowa Tests of Educational Development, Grade 10	Measurement of achievement in mathematics, English, basic science
	Terman-McNemar Test of Mental Ability	Measurement of verbal and mathematical aptitude

Your child's scores on these tests will be checked carefully and maintained in the school record as long as your child attends school in this system. Should your child transfer to another school system, you will be notified of the transfer of his or her permanent record to the new school system. No individual or agency outside of the school system will be permitted to inspect your child's school record without your written permission.

Should you wish to examine your child's record file at any time you may arrange to do so by making an appointment with the principal's office. (In addition, a routine report and interpretation of your child's scores on the above-mentioned tests will be included as part of the second term grade report.)

Sincerely,

_____

Superintendent of Schools

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SAMPLE FORM B

REQUEST FOR PERMISSION TO COLLECT PERSONAL DATA

SPECIAL REQUEST FOR PERMISSION
TO COLLECT PERSONAL INFORMATION

In order to provide your child with more effective guidance and counseling services, your permission is requested for the collection of the following kinds of personal information from your child.

Type of Information or Test	Description and Purpose	Permission Granted	Permission Denied
Minnesota Multiphasic Personality Inventory		☐	☐
Kuder Preference Record	EXAMPLE	☐	☐
Wrenn Study Inventory		☐	☐
Family Background Information		☐	☐

Because of the sensitive nature of this information, all test scores and related information will be treated with complete confidentiality. Only parents and authorized school personnel will be permitted access to this information without parental consent.

Please check the appropriate box signifying your approval or disapproval of this request, sign the form in the space below, and return in the enclosed envelope.

Parent's Signature _____ Date _____

SAMPLE FORM C

RECORD OF INSPECTION OF PUPIL RECORDS

Date: _____

Records Examined: _____
(Name of pupil or pupils)

Records Examined By: _____

Purpose: _____

_____

_____

_____

_____

_____

SAMPLE FORM D

NOTIFICATION OF TRANSFER OF PERMANENT PUPIL RECORD
TO ANOTHER SCHOOL SYSTEM

Dear Parent,

You are hereby notified of the pending transfer of (name of pupil)'s permanent school record to (name of school district) in (location).

Should you wish to receive a copy of the record to be transferred please return the botton portion of this form with your signature by (date).

Sincerely,

_____
Principal

I wish to receive a copy of the school record of

_____ who is my (son) (daughter)
(Please print name of pupil)

(legal ward).

_____ _____
Parent's Signature Date

Address to which transcript should be sent:

_____

_____

_____

SAMPLE FORM E

REQUEST FOR PERMISSION TO RELEASE PERMANENT SCHOOL RECORD TO THIRD PARTY

Dear Parent,

We have received a request from

_____
(name of requesting individual, agency, etc.)

for a copy of (access to) (name of pupil)'s school record.

Please indicate in the space below whether you are willing for us to comply with this request.

(Name of requesting party) may have a copy of (access to) the following parts of (name of pupil)'s record:

- ☐ Official Administrative Record (name, address, birthdate, grade level completed, grades, class standing, attendance record)
- ☐ Standardized Achievement Test Scores
- ☐ Intelligence and Aptitude Test Scores
- ☐ Personality and Interest Test Scores
- ☐ Teacher and Counselor Observations and Ratings
- ☐ Record of Extracurricular Activities
- ☐ Family Background Data

_____ _____
Parent's Signature Date